TAMIL NADU STATE JUDICIAL ACADEMY

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IMPORTANT CASE LAWS

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SUPREME COURT – CIVIL CASES

M/S J N Real Estate Vs. Shailendra Pradhan & Ors. [Civil Appeal Nos. 5405 - 5406 of 2025]

Date of Judgment: 22.04.2025

The present appeals were filed challenging the orders quashing the Trial Court's order allowing impleadment of the appellant as a party in a civil suit.

The brief facts of the case is that the original plaintiff had filed suit seeking specific performance of an agreement to sell, permanent injunction, and declaration that an earlier will and a subsequent sale deed were void. The appellant filed an application to be impleaded, which was allowed by the Trial Court. However, this was challenged by defendant No. 4 before the High Court, which set aside the impleadment and later dismissed the appellant's review petitions. Aggrieved by the same, the appeals were filed seeking restoration of the Trial Court's order.

The dispute concerns a property with competing claims stemming from two conflicting Wills allegedly executed by the late Mr. Indramohan Pradhan. The appellant, claiming ownership through a 2001 Will and sale deed, sought impleadment, which was opposed by defendant No. 4 citing suppression of facts and a status quo violation, though the plaintiff did not object. The High Court found no evidence supporting the appellant's claim and held that the appellant was neither a necessary nor a proper party, casting doubt on the sale's genuineness and holding that the sale deed was suspect and executed during a subsisting status quo order. The appellant argued in review that they were a purchaser lis pendens and hence a necessary party. Defendant No. 4

countered using Sunil Gupta v. Kiran Girhotra to argue that impleadment was not needed in such cases.

The Supreme Court after examining precedents including Kasturi v. Iyyamperumal, Sumtibai v. Paras Finance Co., and Mumbai Int'l Airport v. Regency Convention Centre, observed that, while a purchaser pendente lite may not always be a necessary party, they can be impleaded as a proper party if their interest is directly affected. It emphasized that the High Court had overstepped its supervisory jurisdiction under Article 227, and that the genuineness of the transaction was a matter for trial. The Court further observed that the plaintiff had not objected to impleadment, which supported the appellant's case.

Accordingly, the Supreme Court allowed the appeals, restored the Trial Court's order, and set aside the High Court's, holding that the appellant was a proper party whose presence was necessary for complete adjudication of the issues. All substantive issues were left open for trial.

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Amruddin Ansari (Dead) Through Lrs. & Ors. Vs. Afajal Ali & Ors. [Petition(s) for Special Leave to Appeal (c) No. 11442 of 2023]

Date of Judgment: 22.04.2025

The Petitioners before the Supreme Court are the defendants and their respondents are the plaintiffs in the suit. The brief facts of the case were, the original plaintiffs' father instituted a Civil Suit, seeking declaration, cancellation of a sale deed, and permanent injunction. The suit was dismissed for default, and the subsequent restoration application was also dismissed. Without challenging this dismissal, the plaintiffs (legal heirs) filed a fresh suit seeking the same reliefs. The Trial Court decreed in their favour, but the First Appellate Court reversed it. On second appeal, the High Court reinstated the Trial Court's decree. Aggrieved by the same, defendants approached the Supreme Court through this Special Leave Petition.

The defendants argued that the earlier suit was dismissed for default and therefore the fresh suit was barred and was hit by res judicata. On the other hand, the plaintiffs countered that the High Court rightly held the suit to be maintainable and had properly appreciated the evidence.

The Supreme Court observed that under Order IX Rule 4 CPC, unlike Rule 9, filing a fresh suit was not barred even if the restoration application fails. The Court further clarified that a dismissal under Order IX Rule 2 or 3 is not a decree under Section 2(2) CPC, and therefore, it cannot trigger res judicata. The Court also accepted the High Court's reasoning regarding the evidentiary value of "Wajib Dava".

Therefore, the Supreme Court while dismissing the petition held that, no grounds were found to interfere and upheld the High Court's decision, restoring the Trial Court's decree in favour of the plaintiffs.

Rakhi Sadhukhan Vs. Raja Sadhukhan [Civil Appeal No. 10209 of 2024 (2025 INSC 789)]

Date of Judgment: 29.05.2025

The wife is entitled to permanent alimony that ensures financial stability and reflects the standard of living she enjoyed during the marriage.

The civil appeal has been filed by the appellant/wife challenging the high court order on the quantum of permanent alimony awarded to her. The brief facts of the case is that the appellant-wife and respondent-husband, married in 1997 with a son born in 1998, entered legal disputes beginning in 2008 when the husband filed for divorce alleging cruelty. The wife sought maintenance under various provisions. The Trial Court awarded interim and later permanent maintenance but dismissed the divorce suit in 2016.

On appeal, the High Court reversed this, granting divorce on the grounds of mental cruelty and irretrievable breakdown. The High Court directed the husband to transfer the mortgaged flat to the wife, allow her and their son to reside there, pay ₹20,000 monthly alimony (with periodic increases), and cover the son's educational expenses.

Aggrieved by the quantum of alimony awarded by the High Court, the appellant appealed to the Supreme Court. The appellant contended that the respondent-husband has a monthly income of approximately Rs. 4,00,000/- and that the awarded alimony was not commensurate with the standard of living maintained during the marriage. The respondent contended that his current net monthly income is ₹1,64,039 and that he has remarried and supports a dependent family and aged parents, and stated that their 26-year-old son is no longer financially dependent.

The Court found that the permanent alimony awarded by the High Court required enhancement, and that the respondent-husband's income, financial disclosures, and past earnings established his position to pay a higher amount. The Court, while allowing the appeal, held that the appellant, who remains unmarried and financially dependent, is entitled to permanent alimony that ensures a life of dignity and reflects the standard of living she enjoyed during the marriage. The Court fixed the amount at ₹50,000 per month, with a 5% increase every two years. The Court declined to direct further support for the 26-year-old son but left open the option for voluntary assistance from the respondent. The Court also clarified that the son's right to inheritance remains unaffected.

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Shubhkaran Singh Vs. Abhayraj Singh & Ors [Special Leave Petition (Civil) Nos.12012-12013 of 2025 (2025 INSC 628)]

Date of Judgment: 05.05.2025

The Special Leave Petitions were filed by the petitioner challenging the dismissal of his application under Order 18 Rule 17 of the Code of Civil Procedure, 1908, filed to recall a witness for further examination by the High Court, and the subsequent rejection of his review petition.

The Court considered the scope of Order 18 Rule 17 CPC, which authorises a court at any stage of a suit to recall any witness who has been examined and to put such questions as the court deems fit. The Court held that this provision confers a discretionary power upon the court alone and must be used sparingly, only for purposes such as clarification of ambiguities or eliciting further details necessary for proper adjudication. The Court emphasised that the rule is not intended to permit a party to fill lacunae in their case.

Reading Order 18 Rule 17 in conjunction with Section 165 of the Indian Evidence Act, 1872, the Court reiterated that a judge may, to discover or obtain proper proof of relevant facts, ask any question in any form at any time. However, parties have no automatic right to cross-examine in such a recall without the court's leave.

The Court reaffirmed principles laid down in *Sultan Saleh Bin Omer v. Vijayachand Sirmal* [AIR 1966 AP 295], *Vadiraj Naggappa Vernekar v. Sharadchandra Prabhakar Gogate* [(2009) 4 SCC 410], and *K.K. Velusamy v. N. Palanisamy* [(2011) 11 SCC 275], holding that while courts retain inherent jurisdiction under Section 151 CPC to allow re-examination in exceptional cases, such discretion must not be exercised routinely. Thus the Court dismissed the Special Leave Petitions.

SUPREME COURT - CRIMINAL CASES

Aejaz Ahmed Sheikh Vs. State of Uttar Pradesh & Anr. [Criminal Appeal No.2142 of 2017 (2025 INSC 529]

Date of Judgment: 22.04.2025

The criminal appeals were filed by the complainant and the State, challenging the judgment of the High Court which had set aside the conviction and death sentence awarded by the Trial Court under Section 302 IPC. The prayer in the appeals was to restore the conviction, contending that the Trial Court had rightly relied upon the testimony of the minor son of the accused and the dying declarations of the deceased.

The case arose from an incident in which the accused's wife and three daughters sustained burn injuries and later died. P.W.5, the minor son, was treated as an eyewitness. Two dying declarations, recorded by P.W.11 (Tahsildar), attributed blame on the accused. The Trial Court relied on these to convict the appellant.

The High Court reversed the conviction, holding that the testimony of P.W.5 lacked legal foundation. The Supreme Court agreed, stating that under Section 118 of the Indian Evidence Act, the Trial Court was required to conduct an inquiry to assess the competence of the minor witness before recording his evidence. No such inquiry had been undertaken. The Court also noted that the dying declarations were never put to the accused under Section 313 Cr.P.C., thereby causing prejudice.

It was also observed that both the accused and a co-accused (Aslam) had suffered burn injuries, which were not explained by the prosecution, further weakening the prosecution case and the Court held that a remand after 14 years would be prejudicial.

Dismissing the appeals, the Court upheld the High Court's view as a possible conclusion based on the evidence and held that the procedural violations rendered the Trial Court's conviction unsustainable in law.

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Renuka Prasad Vs. The State Represented by Assistant Superintendent of Police [Criminal Appeal Nos.3189-3190 of 2023 (2025 INSC 657)]

Date of Judgment: 09.05.2025

The criminal appeals were filed by the appellants, challenging the judgment of the High Court reversing the acquittal granted by the Trial Court and convicting them under Section 302 read with Section 120-B IPC on the ground that the prosecution failed to produce admissible and reliable evidence to prove the charge of murder and conspiracy.

The case related to a murder allegedly committed by the appellants pursuant to a conspiracy. The Trial Court had acquitted all accused except one (A7), noting that 71 out of 87 prosecution witnesses, including key eyewitnesses and family members of the deceased, had turned hostile. PW8, the informant and son of the deceased, had failed to identify any of the accused and recoveries made during investigation were not connected to the actual assailants.

The High Court reversed the acquittal relying heavily on depositions of Investigating Officers (PW83, PW84, PW87), who narrated statements recorded under Section 161 CrPC. The Court also placed reliance on confessions made by co-accused and the recoveries made pursuant to such statements.

The Court held that statements under Section 161 Cr.P.C. are not substantive evidence and cannot be used except for contradiction under Section 162 Cr.P.C. and voluntary confessions made by co-accused that do not lead to a discovery are inadmissible under Sections 25 and 26 of the Indian Evidence Act and the recoveries in the present case were unrelated to the incident and made based on confessions of persons not shown to be the assailants.

Allowing the appeals, the Court set aside the conviction and restored the Trial Court's acquittal, holding that the prosecution had failed to establish guilt through legal and credible evidence.

Sameer Sandhir Vs. Central Bureau of Investigation [Criminal Appeal Nos.4718-4719 of 2024 (2025 INSC 776)]

Date of Judgment: 23.05.2025

The criminal appeal was filed by the appellant, challenging the orders of the Special Court and the High Court, which allowed the prosecution to produce two Compact Discs (CDs) containing intercepted calls as evidence during the trial. The CDs were not included with the original or supplementary charge sheet. The prayer in the appeal was to exclude the CDs from evidence, contending that their late introduction violated Section 173(5) and 173(8) of the Code of Criminal Procedure.

The case concerned prosecution under Section 120-B IPC and Sections 7, 8, 9, and 10 of the Prevention of Corruption Act, 1988. The CDs were seized and sent for forensic analysis in May 2013. Though the CFSL report and Section 65B certificate were filed, the CDs themselves were not enclosed with the charge sheet.

The appellant argued that such belated introduction was impermissible unless supported by further investigation and a fresh report under Section 173(8) Cr.P.C. It was also contended that the authenticity and integrity of the CDs were in doubt.

The respondent submitted that the CDs were part of the same investigation and had been properly referenced. Relying on *CBI v. R.S. Pai*, it was argued that Section 173(5) is directory, not mandatory, and courts can allow documents omitted earlier.

The Court upheld this view, stating that the trial court rightly exercised discretion under Section 311 Cr.P.C to permit production. It clarified that admissibility under Section 65B and the question of authenticity must be decided during trial.

Dismissing the appeal, the Court held that the accused had the right to recall witnesses to challenge the CDs, and procedural omission alone could not override substantive justice.

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V.S.R. Mohan Rao Vs. K.S.R. Murthy and Ors. [Special Leave Petition (C) No.12570 of 2025] [2025 INSC 708]

Date of Judgment: 15.05.2025

The criminal appeal was filed by the appellant, challenging the concurrent findings of the Special Court and the High Court, which held that the appellant had illegally encroached upon the land belonging to the respondents and was guilty of land grabbing under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. The case of the appellant was that he was in lawful ownership and lawful possession.

The case involved a dispute over possession of 252 sq. yards in Sy. No. 9 of a registered land, which the appellant claimed to have purchased under a deed citing Sy. No. 10. The respondents relied on a 1965 sale deed and revenue entries, claiming lawful ownership and possession. The Special Court accepted the title documents and the Survey Report, holding that the appellant had encroached and the High Court affirmed this view.

The appellant contended that his possession was lawful and long-standing, and that the respondents failed to prove exclusive title. The respondents contended that the presumption under Section 10 of the Act had not been rebutted, and the appellant's claim of adverse possession was unsupported.

The Court noted that the accused failed to rebut the statutory presumption or explain the mismatch in survey numbers and held that "land grabbing" as defined under Sections 2(d) and 2(e) requires unauthorized possession with intent and the Special Court was justified in relying on documentary and survey evidence.

Dismissing the appeal, the Court affirmed that under the special enactment, lawful possession traceable to a valid source is sufficient and held that the respondents were entitled to pursue eviction under the Act.

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State Represented By Inspector of Police, CBI, ACB, Visakhapatnam Vs. Eluri Srinivasa Chakravarthi & Others [Special Leave Petition (Criminal) Nos. 5941-5951 of 2022]

Date of Judgment: 22.05.2025

The appeals arose from a batch of criminal revisions where the accused persons, including a Cotton Corporation of India (CCI) officer and others, were alleged to have conspired to misuse the Minimum Support Price (MSP) scheme. The CBI alleged that cotton was purchased at lower market rates, hoarded, and then sold to CCI under fictitious farmer names, thereby causing wrongful gain amounting to ₹21.19 crores.

Both the Special Court and the High Court discharged the accused, primarily relying on a letter dated 31.01.2007 from CCI, which stated that no procedural violations or financial losses were attributed to the accused. The Supreme Court held that this approach was contrary to the established legal framework.

The Court reaffirmed that at the stage of considering a discharge under Section 239 Cr.P.C., only the police report and documents filed along with it under Section 173 Cr.P.C can be examined. Defence materials or communications such as the CCI letter in question cannot form the basis for discharge, as doing so would effectively result in a "mini-trial," which is impermissible in law.

Accordingly, the Court set aside the impugned orders, holding them to be patently illegal and beyond the permissible scope of judicial discretion under Section 239 Cr.P.C. The matter was remanded to the Special Court to reconsider the discharge applications strictly in accordance with law, and uninfluenced by any observations made in the impugned or present judgment.

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HIGH COURT - CIVIL CASES

J.Kathiresan Vs. M.N.Balamurugan [A.S. No.89 of 2018 and CMP. No.2402 of 2018] [2025 (2) TLNJ 53 (Civil)]

Date of Judgment: 02.04.2025

Challenging the judgment and decree dated 23.11.2016 passed by the trial court in O.S. No. 186 of 2009, the defendant filed the present appeal. The original suit was filed by the plaintiff, seeking recovery of Rs. 20,00,000/- with interest based on a promissory note allegedly executed by the defendant. The trial court decreed the suit in favour of the plaintiff with 6% interest and costs.

The plaintiff claimed that the defendant borrowed Rs. 20,00,000/- for his gold business on 30.08.2008 and had executed a promissory note and despite repeated demands, no payment was made. The defendant denied the loan and execution of the promissory note, stating that the plaintiff, being a jeweller, had given him gold for manufacturing ornaments, and in that context, obtained his signatures on blank stamp papers and other documents as security and that the suit was based on a fabricated document and was also barred by limitation. He also mentioned filing an earlier suit (O.S. No.1312 of 2008) seeking return of those documents, which was dismissed.

After analyzing the available evidence, the High Court observed that the defendant had, through Ex.A2 notice dated 03.12.2008, demanded return of blank signed documents, indicating his awareness of such instruments, including the promissory note dated 30.08.2008. Moreover, when the plaintiff furnished a copy of the disputed note (Ex.A5) upon request (Ex.A4), the defendant failed to respond. His affidavit also admitted giving a signed pronote with a thumb impression to the plaintiff. The Court observed that under Section 118 of the Negotiable Instruments Act, a legal presumption exists that the promissory note was issued for consideration unless rebutted.

Hence the court, while dismissing the appeal, held that the defendant failed to prove that the signed blank promissory note was given merely as security and the statutory presumption under Section 118 remained unrebutted.

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S.P.R.Velumurugan & Another Vs. S.P.R.Rajmohan & Others [C.R.P. (PD) (MD) No. 95 of 2025 and C.M.P. (MD) No.585 of 2025] [2025 (2) TLNJ 82 (Civil)]

Date of Judgment: 02.04.2025

The Civil Revision Petition was filed by Defendant No.4 and Defendant No.11 to strike off the plaint in O.S.No.127 of 2024 as time barred. The suit was filed by the plaintiff to declare the registered sale deed dated 29.06.2018 executed by the 1st defendant in favour of the 4th defendant as null and void.

The plaintiff and 11th defendant are brothers and joint owners of the disputed property. They had executed a power of attorney in favour of the 1st defendant on 15.03.2018, who later misused the power to execute a mortgage deed and subsequently sold the property to the 4th defendant. The plaintiff filed a police complaint on 16.03.2020, resulting in the registration of an FIR and in the criminal case, the 1st defendant gave an undertaking not to oppose any civil suit on limitation grounds. Based on that, the FIR was quashed on 05.12.2023. The plaintiff filed the civil suit on 18.09.2024, but the 4th and 11th defendants filed the present revision stating that the suit was barred by limitation since the plaintiff had knowledge of the sale deed as on 16.03.2020 itself.

The plaintiff contended that the limitation period should be extended under Section 14 of the Limitation Act since he was prosecuting another proceeding (the FIR), and the 1st defendant’s undertaking in the criminal case prevented the defendants from raising the issue of limitation.

The Court observed that the plaintiff, by his own admission, had knowledge of the sale deed by 16.03.2020 and thus, under Article 58 and 59 of the Limitation Act, the suit filed on 18.09.2024 was clearly beyond the three-year limitation period and rejected the plaintiff's reliance on Section 14 of the Limitation Act since no prior civil proceeding was prosecuted and referring to *Ramisetty Venkatanna* (2023) and *Shri*

Mukund Bhavan Trust (2024), reiterated that courts must strike off suits that are evidently barred by limitation under Order VII Rule 11(d) CPC to avoid misuse of judicial process and allowed the Civil Revision Petition.

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S.Thangapandi Vs. S.Ganesan [AS (MD) No.299 of 2021] [2025 (2) TLNJ 207 (Civil)]

Date of Judgment: 17.04.2025

The Appeal Suit was filed by the defendant under Section 96 CPC to set aside the judgment and decree dated April 1, 2021 passed in O.S.No.206 of 2017. The suit was instituted by the plaintiff, seeking recovery of Rs. 17,75,000/- based on a promissory note. During the trial, the defendant filed I.A.No.403 of 2019 to seek an expert opinion on the genuineness of his signature on the promissory note, which was dismissed by the trial court. His subsequent Civil Revision Petition (C.R.P.(MD) No.970 of 2020) was also dismissed as infructuous since the trial had already been concluded.

The plaintiff contended that the defendant borrowed the amount on February 4, 2016, by executing a promissory note (Ex.A1) and failed to repay and initiated false criminal case. The defendant denied borrowing any money and alleged that the promissory note was forged by the plaintiff to counter the criminal case which he had filed against the plaintiff and others for damaging and setting fire to his car.

The plaintiff examined himself as P.W.1 and the scribe as P.W.2, and witness and relative of the defendant as P.W.3, establishing the execution of the promissory note. The defendant claimed forgery but failed to produce convincing evidence or obtain an expert opinion based on contemporaneous signatures.

The court observed that the plaintiff had satisfactorily discharged his initial burden to prove the execution of the promissory note and under Section 118 of the Negotiable Instruments Act, a presumption of consideration arises once execution is proved, shifting the burden to the defendant, which the defendant failed to rebut by credible evidence.

Accordingly, the Court dismissed the appeal.

Ranjithkumar Vs. Muniswari @ Sasi [C.R.P. (PD) (MD) No.1018 of 2025 & C.M.P.(MD) No.5499 of 2025] [2025 (2) TLNJ 213 (Civil)]

Date of Judgment: 22.04.2025

The Civil revision petition was filed by the petitioner / husband, to set aside the order of interim maintenance passed by the Family Court in an application filed by his wife, during the pendency of the divorce petition in HMOP.No.95 of 2024 filed by the petitioner / husband. The Family Court had directed petitioner to pay his wife a sum of Rs.6000/- per month as interim maintenance.

The dispute arose after the husband, having initiated divorce proceedings, opposed the interim maintenance grant, claiming that his wife is a law graduate employed as an Assistant Defense Counsel earning Rs.2,30,000/- monthly. He also referred to an earlier mutual consent divorce petition (HMOP.No.58 of 2023), where the wife had stated she would not seek maintenance, although it was later withdrawn. The petitioner husband claimed to be unemployed and dependent on his father's pension. The wife, however, maintained that her job was contractual under legal aid with inconsistent income, admitting in cross-examination to earning only Rs.27,000/- per month. The respondent wife alleged that the husband, an M.Tech graduate, worked as a building promoter and financier with an income of Rs.5,00,000/- per month, which he denied without producing evidence of business closure.

The Court held that interim maintenance is assessed on whether the applicant has adequate income to support herself, and it is no defense that the wife is educated or capable of working. The Court emphasized that the wife's temporary income does not negate her right to maintenance, especially considering the husband's better financial capacity and the need to maintain the same standard of living as in the matrimonial home and dismissed the Civil Revision Petition.

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HIGH COURT – CRIMINAL CASES

Ponmani Vs. The Deputy Superintendent of Police, Manamadurai, Poovanthi Police Station [Crl. A. (MD) No.539 of 2018] [2025-1-MWN(Cr.) 623]

Date of Judgment: 07.04.2025

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), Section 3(1)(x); Indian Penal Code, 1860 (45 of 1860), Sections 294(b) & 506 (ii): Ingredients of offence.

The criminal appeal has been filed by the appellant, challenging the conviction and sentence under the IPC and the SC/ST Act, imposed on him by the trial court. The brief facts of the case is that due to some civil dispute between the appellant and the defacto complainant/ P.W.1, the appellant abused the defacto complainant by using her caste name and also threatened her with dire consequences while she was cutting wood on her land. The Trial Court convicted the accused for the offences under Sections 294(b) and 506(ii) of IPC and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes, Act, 1989. Hence, the appellant filed the present Appeal.

The appellant contended that the complaint was false, arising from a property dispute with the defacto complainant, and influenced by her advocate brother-in-law, and that the prosecution failed to establish the offences under IPC and SC/ST Act. The appellant further contended that P.W.2, being a relative of the defacto complainant, gave uncorroborated evidence, and P.W.3 arrived only after the incident, and no caste abuse was proved.

On the other hand, the respondent contended that the presence of the appellant’s brothers at the place of occurrence during the scolding amounts to proof of 'public view' under the SC/ST Act, supported by the defacto complainant’s clear testimony and presence of witnesses. The respondent also contended that, while scolding the defacto complainant, the appellant was under the influence of alcohol. The civil dispute established motive, and the drafting of the complaint by an advocate did not affect its credibility.

The Court observed that to convict the appellant under Section 3(1)(X) of the SC/ST Act, the prosecution shall prove that the appellant scolded the defacto complainant in public view and only the relatives (P.W.2 and P.W.4) were examined, with no independent support; notably, P.W.4 did not confirm any caste-based abuse. Further, the court observed that the presence of the appellant’s brothers was unproven, and a pending civil dispute between the parties raised doubts about motive and the complaint was filed after consultation with the defacto complainant’s brother-in-law who was an advocate suggesting fabrication and no evidence supported the claim that the appellant was intoxicated. The court, while allowing the appeal held that the "public view" requirement under the SC/ST Act was not met as only relatives were present at the time of alleged occurrence and no real threat was established to prove an offence under IPC Section 506(i), and IPC Section 294(b) was not attracted since mere use of obscene words without evidence of ‘to the annoyance of others’ was insufficient. Consequently, the conviction was set aside, and the appellant was acquitted.

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Ramasamy & Anr. Vs. State represented by The Inspector of Police, All Women Police Station, Rasipuram [Criminal Revision Case No.504 of 2019]

Date of Judgment: 17.04.2025

The Criminal Revision petition has been filed by the petitioners/accused challenging their conviction under Section 498-A of IPC for subjecting the complainant, the wife of the first petitioner (the de facto complainant/P.W-1), to cruelty. Allegations included physical abuse, forced abortion attempts during pregnancy, threats with weapon, and denial of access to the matrimonial home after childbirth. The Trial Court convicted the accused No.1&2 for the offence under Section 498-A of IPC, sentencing them to one year of simple imprisonment and a fine. The Appellate Court upheld the conviction. Aggrieved by the same, the petitioners filed this criminal revision. The petitioners contended that the Social Welfare Officer's report showed no dowry demand or harassment and Section 498-A addresses cruelty and not specifically dowry-related abuse, and that the complainant had an illicit relationship, which led them to oppose the marriage. The petitioners claimed the case stemmed from a trivial marital dispute, lacked corroborating evidence beyond the complainant's family, and that the lower courts relied on assumptions, not proof. On the other hand, the respondent argued that revisional courts cannot re-evaluate evidence unless there's a legal error or perversity. The complainant's testimony, supported by her parents, proved cruelty. The trial court rightly rejected the defense's claim of an illicit relationship due to lack of proof.

The Court found the complainant's testimony credible, especially regarding the attempted forced abortion and denial of access to her matrimonial home, which constituted cruelty under Section 498-A. Other prosecution witnesses corroborated the complainant's claims. The court observed that the absence of dowry harassment in the welfare report did not invalidate the conviction, and the accused's failure to present any defense evidence weakened their case. The Court, while dismissing the petition, held that Section 498-A IPC covers all forms of cruelty by husband or relatives, not just dowry harassment. The Court found no reason to interfere with the trial and appellate courts' findings and confirmed the conviction under Section 498-A.

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A.M.Narayana Babu Vs. J.Geetha [Crl. A. No.373 of 2024] [2025-1-MWN(Cr.) DCC 186 (Mad.)]

Date of Judgment: 24.07.2024

Negotiable Instruments Act, 1881 (26 of 1881) - Ingredients constituting offence under Section 138.

The present appeal has been filed by the appellant / complainant challenging the acquittal by the trial court. The case of the appellant/complainant is that the respondent along with her husband had borrowed a sum of Rs.1,50,000/- from the appellant based on a post-dated cheque which was dishonoured on presentation. The appellant issued a legal notice and the same was returned with an endorsement of "no person found", and hence the complaint under section 138 NI Act. The trial court acquitted the respondent, finding no proof of a legally enforceable debt. The appellant contended that the respondent did not dispute her signature on the dishonoured cheque, indicating a legally enforceable debt, and that the respondent failed to rebut the presumption under Section 139, and as there was no claim of misuse, loss, or police complaint, the presumption was that the cheque was issued towards a debt, attracting Section 138 of the Act.

The Court observed that, apart from the cheque, there was no documentary evidence to support the claim that a sum of Rs.1,50,000 was lent to the respondent. The Court highlighted that mere dishonour of a cheque is not sufficient to attract Section 138 of the Act; the complainant must establish the existence of a legally enforceable debt. The respondent's claim that the cheque was issued as security and later misused could not be ignored. The Court, while dismissing the appeal, held that the complainant had failed to prove the existence of a legally enforceable debt, and therefore, there was no need to interfere with the order of acquittal.

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S.Lokambal Vs. The Embal Police Station, through its Sub Inspector of Police, Embal, Thirumayam Taluk, Pudukottai District & Anr. [Crl. R.C. (MD). No.1406 of 2024] [2025-1-L.W.(Crl.) 716]

Date of Judgment: 02.04.2025

Indian Penal Code, 1860, Sections 147, 294(b), 323, 506(2); Tamil Nadu Prohibition of Harassment of Women Act, 2002, Section 4; Criminal Procedure Code, Sections 240, 241, 242, 354(4).

The revision petition has been filed by the petitioner challenging the trial court's judgment, which imposed a lesser sentence of imprisonment and fine on the second respondent, and held that the charge under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 (TN PHW Act), would not apply.

The revision petitioner is the defacto complainant. Based on the complaint lodged by the petitioner and after the investigation, the first respondent police laid a Charge Sheet U/s.147, 294(b), 323, 506(2) of IPC and U/s. 4 of the TN PHW Act, 2002 against the second respondent. The second respondent initially denied the charges but later pleaded guilty before the examination of witnesses. Relying on this admission, the trial court convicted him under U/s.294(b), 323, 506(2) of IPC, imposing a fine of Rs.1,000/- for each offence, with two weeks' simple imprisonment in default and left the charge U/s.4 of TN PHW Act on the ground that the said section was not attracted. Aggrieved by the said judgment, the petitioner filed this Revision Petition.

The petitioner contended that the incident occurred in a paddy field, an open public place, and therefore, Section 4 of the TN PHW Act should have been applied. The trial court failed to issue notice to the complainant or examine witnesses. The petitioner further contended that mere admission of guilt should not have resulted in a lenient sentence, especially when the accused initially denied the charges. The omission of the charge under section 4 and the imposition of only fines under

Sections 294 (b), 323, and 506 (ii) of the IPC, without proper reasoning, violated principles of natural justice and Section 354 (4) of the Code of Criminal Procedure.

On the other hand, the respondents contended that the incident occurred on private patta land, making Section 4 of the TN PHW Act inapplicable, and the trial court rightly exercised its discretion in awarding punishment.

The High Court observed that the charge sheet was filed only against the second respondent without informing the defacto complainant, despite the initial police report naming other accused. The High Court found that the subsequent admission of guilt by the second respondent, after initially denying the charges, "could not be taken as a voluntary one". The Court highlighted that even with an admission of guilt, the trial court should have examined material witnesses to corroborate the admission and understand the context of the crime, and it has the discretion to assess the evidence of material witnesses. The High Court noted that the trial court failed to call and examine material witnesses. The Court pointed out that for the offense U/s.506(ii) of IPC, imprisonment can extend up to seven years, yet the trial court imposed only a fine of Rs.1,000/-. The High Court found that the trial court did not comply with Section 354(4) of Cr.P.C., which requires recording reasons for imposing a sentence of less than three months for offenses punishable with imprisonment of one year or more. Finding the trial court's judgment contrary to settled principles, the Court allowed the revision, set aside the trial court's judgment, and remitted the case back to the trial court for fresh disposal on merits in accordance with law.

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K.B.Raju Vs. K.Asokan [Criminal Appeal No.653 of 2012] [2025-1-MWN(Cr.) DCC 149 (Mad.)]

Date of Judgment: 18.03.2025

Negotiable Instruments Act, 1881 (26 of 1881), Sections 138 & 118.

The criminal appeal has been filed by the Appellant/Complainant to set aside the judgment passed by the trial Court, which acquitted the Respondent/Accused of the offence under Sections 138 to 142 of The Negotiable Instruments Act. The case of the complainant is that the Respondent, along with one Mohan, borrowed Rs. 2 lakhs from the Appellant, agreeing to repay it with 36% annual interest, and later issued a cheque for Rs. 4 lakhs, which was dishonoured. A legal notice was issued, followed by a denial from the Respondent. The Appellant filed a case under Section 138 of the Negotiable Instruments Act, claiming that the cheque was for a legally enforceable debt. However, the Trial Court acquitted the Respondent, holding that since the cheque amount exceeded the loan, Section 138 was not applicable. The Trial Court dismissed the complaint and acquitted the accused. Against which the appeal has been preferred. The Appellant contended that the Respondent admitted the loan and agreed to 36% interest, making the Rs. 4 lakh cheque inclusive of principal and interest, and that failure to maintain accounts was irrelevant and the cheque was undisputed, and the trial court erred in not properly applying the presumption under Section 139. On the other hand, the Respondent contended that the complaint omitted crucial details about the loan and promissory note. The Respondent highlighted the Appellant's admission of not keeping financial records and argued this negated the Section 139 presumption, and further claimed the Rs. 4 lakh cheque as security, as the actual debt was repaid in 2006. The Court found the complaint and appeal lacked essential details, with no specifics on payment, the promissory note, or the mode of transaction. The testimony of P. W. 1 failed to establish that the cheque was for principal and interest, and further P.W.1 admitted that he kept no records of loans. The Court observed that the burden under Section 118(g) of the NI Act to prove consideration was unmet. The court noted that the high interest rate could attract the Tamil Nadu Prohibition of Charging Exorbitant

Interest Act, rendering the claim void. The court, while dismissing the appeal, held that without books of accounts, the claim cannot be considered, and that only after the Complainant proves the initial burden does it shift to the Accused under Section 139 of the NI Act.

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